

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

NAVY SEALS 1-3, et al.,

Plaintiffs,

v.

**LLOYD AUSTIN, III**, in his official capacity as  
Secretary of Defense, *et al.*,

Defendants.

Case No. 4:21-cv-01236-O

**APPENDIX IN SUPPORT OF DEFENDANTS' MOTION TO COMPEL PLAINTIFFS  
TO ANSWER DEFENDANTS' REQUESTS FOR ADMISSIONS**

**Table of Appendix**

Bates Stamps	Exhibit	Description
App.000001–App.000213	DEX1	Email from A. Powell to A. Stephens, attaching 35 sets of Defendants' First Set of Requests for Admissions (July 15, 2022).
App.000214–App.000224	DEX2	Plaintiff U.S. Navy SEAL 1's Responses and Objections to Defendants' First Set of Requests for Admissions (Aug. 15, 2022).
App.000225–App.000235	DEX3	Plaintiff U.S. Navy SEAL 2's Responses and Objections to Defendants' First Set of Requests for Admissions (Aug. 15, 2022).
App.000236–App.000246	DEX4	Plaintiff U.S. Navy SEAL 3's Responses and Objections to Defendants' First Set of Requests for Admissions (Aug. 15, 2022).
App.000247–App.000257	DEX5	Plaintiff U.S. Navy Explosive Ordnance Disposal Technician 1's Responses and Objections to Defendants' First Set of Requests for Admissions (Aug. 15, 2022).
App.000258–App.000263	DEX6	Non-Class Representative Plaintiffs' (U.S. Navy SEALs 4–26; U.S. Navy Special Warfare Combatant Craft Crewmen 1–5; and U.S. Navy Divers 1–3) Objections to Defendants' First Set of Requests for Admissions (Aug. 15, 2022).
App.000264–App.000268	DEX7	Email Thread Between Counsel Regarding Meet and Confer (Sept. 2, 2022–Oct. 3, 2022)
App.000269–App.000273	DEX8	Decl. of Dr. Bruce M. McClenathan (Aug. 5, 2022)

Dated: October 14, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/ Jody D. Lowenstein  
ANDREW E. CARMICHAEL  
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*Counsel for Defendants*

# DEX1

**Lowenstein, Jody D. (CIV)**

---

**From:** Powell, Amy (CIV)  
**Sent:** Friday, July 15, 2022 1:59 PM  
**To:** Andrew Stephens; Carmichael, Andrew E. (CIV); Avallone, Zachary A. (CIV); Snyder, Cassandra M (CIV); Yang, Catherine M (CIV)  
**Cc:** Heather Hacker; Danielle Runyan; Holly Randall; David Hacker; Mike Berry; Ryan Gardner  
**Subject:** RE: Navy Seals 1-26 v. Biden  
**Attachments:** Defs 1st set of RFAs Navy Diver 1.pdf; Defs 1st set of RFAs Navy Diver 2.pdf; Defs 1st set of RFAs Navy Diver 3.pdf; Defs 1st set of RFAs Navy Explosive Ordnance Disposal Technician 1.pdf; Defs 1st set of RFAs Navy SEAL 1.pdf; Defs 1st set of RFAs Navy SEAL 2.pdf; Defs 1st set of RFAs Navy SEAL 3.pdf; Defs 1st set of RFAs Navy SEAL 4.pdf; Defs 1st set of RFAs Navy SEAL 5.pdf; Defs 1st set of RFAs Navy SEAL 6.pdf; Defs 1st set of RFAs Navy SEAL 7.pdf; Defs 1st set of RFAs Navy SEAL 8.pdf; Defs 1st set of RFAs Navy SEAL 9.pdf; Defs 1st set of RFAs Navy SEAL 10.pdf; Defs 1st set of RFAs Navy SEAL 11.pdf; Defs 1st set of RFAs Navy SEAL 12.pdf; Defs 1st set of RFAs Navy SEAL 13.pdf; Defs 1st set of RFAs Navy SEAL 14.pdf; Defs 1st set of RFAs Navy SEAL 15.pdf; Defs 1st set of RFAs Navy SEAL 16.pdf; Defs 1st set of RFAs Navy SEAL 17.pdf; Defs 1st set of RFAs Navy SEAL 18.pdf; Defs 1st set of RFAs Navy SEAL 19.pdf; Defs 1st set of RFAs Navy SEAL 20.pdf; Defs 1st set of RFAs Navy SEAL 21.pdf; Defs 1st set of RFAs Navy SEAL 22.pdf; Defs 1st set of RFAs Navy SEAL 23.pdf; Defs 1st set of RFAs Navy SEAL 24.pdf; Defs 1st set of RFAs Navy SEAL 25.pdf; Defs 1st set of RFAs Navy SEAL 26.pdf; Defs 1st set of RFAs Navy Special Warfare Combatant Craft Crewman 1.pdf; Defs 1st set of RFAs Navy Special Warfare Combatant Craft Crewman 2.pdf; Defs 1st set of RFAs Navy Special Warfare Combatant Craft Crewman 3.pdf; Defs 1st set of RFAs Navy Special Warfare Combatant Craft Crewman 4.pdf; Defs 1st set of RFAs Navy Special Warfare Combatant Craft Crewman 5.pdf

Andrew:

Attached are Defendants' First set of Requests for Admissions as to each Plaintiff. I'll be in touch next week about meeting and conferring on Plaintiffs' discovery responses to date. I'm happy to try to work things out if possible.

Thanks  
Amy

Amy Elizabeth Powell  
Senior Trial Counsel, Federal Programs Branch  
Civil Division, Department of Justice  
150 Fayetteville St, Suite 2100  
Raleigh, NC 27601  
Phone: 919-856-4013  
Email: [amy.powell@usdoj.gov](mailto:amy.powell@usdoj.gov)

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**From:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>

**Sent:** Monday, July 11, 2022 7:13 PM

**To:** Powell, Amy (CIV) <[Amy.Powell@usdoj.gov](mailto:Amy.Powell@usdoj.gov)>; Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV)

<Cassandra.M.Snyder@usdoj.gov>; Yang, Catherine M (CIV) <Catherine.M.Yang@usdoj.gov>

**Cc:** Heather Hacker <heather@hackerstephens.com>; Danielle Runyan <drunyan@firstliberty.org>; Holly Randall <hrandall@firstliberty.org>; David Hacker <dhacker@firstliberty.org>; Mike Berry <mberry@firstliberty.org>; Ryan Gardner <rgardner@firstliberty.org>

**Subject:** [EXTERNAL] RE: Navy Seals 1-26 v. Biden

Attached are responses to Defendants' First Requests for Production.

Andrew

**Andrew B. Stephens**

Partner

**HACKER STEPHENS** LLP  
[www.hackerstephens.com](http://www.hackerstephens.com)

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---

**From:** Andrew Stephens

**Sent:** Thursday, July 7, 2022 5:35 PM

**To:** [Amy.Powell@usdoj.gov](mailto:Amy.Powell@usdoj.gov); Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV) <[Cassandra.M.Snyder@usdoj.gov](mailto:Cassandra.M.Snyder@usdoj.gov)>; Yang, Catherine M (CIV) <[Catherine.M.Yang@usdoj.gov](mailto:Catherine.M.Yang@usdoj.gov)>

**Cc:** Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>; Danielle Runyan <[drunyan@firstliberty.org](mailto:drunyan@firstliberty.org)>; Holly Randall <[hrandall@firstliberty.org](mailto:hrandall@firstliberty.org)>; David Hacker <[dhacker@firstliberty.org](mailto:dhacker@firstliberty.org)>; Mike Berry <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Ryan Gardner <[rgardner@firstliberty.org](mailto:rgardner@firstliberty.org)>

**Subject:** Navy Seals 1-26 v. Biden

Attached are responses to Defendants' Interrogatories.

Andrew

**Andrew B. Stephens**

Partner

**HACKER STEPHENS** LLP  
[www.hackerstephens.com](http://www.hackerstephens.com)

This message contains information that may be confidential and privileged. Unless you are the intended recipient (or authorized to receive for the intended recipient), you may not use, copy, or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by replying or by phone at (512) 399-3022 and delete the message.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY DIVER 1**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Diver 1.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Diver 1.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
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AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY DIVER 2**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Diver 2.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Diver 2.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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1100 L Street, N.W.  
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Tel: (919) 856-4013  
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Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY DIVER 3**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Diver 3.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Diver 3.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
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8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Explosive Ordnance Disposal Technician 1

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Explosive Ordnance Disposal Technician 1.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS  
TO PLAINTIFF U.S. NAVY SEAL 1**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 1.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 1.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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1100 L Street, N.W.  
Washington, DC 20005  
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Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS  
TO PLAINTIFF U.S. NAVY SEAL 2**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 2.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 2.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
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10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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1100 L Street, N.W.  
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Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 3**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 3.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 3.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
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Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 4**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 4.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 4.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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Washington, DC 20005  
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Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 5**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 5.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 5.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
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1100 L Street, N.W.  
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Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 6**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 6.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 6.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
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United States Department of Justice  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 7**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 7.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 7.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 8**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 8.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 8.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 9**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 9.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 9.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 10**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 10.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 10.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 11**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 11.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 11.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 12**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 12.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 12.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 13**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 13.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 13.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 14**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 14.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 14.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 15**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 15.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 15.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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1100 L Street, N.W.  
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Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 16**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 16.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 16.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 17**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 17.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. “**You**,” “**your**,” or “**Plaintiff**,” (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 17.
2. “**Plaintiffs**” (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. “**And**” and “**or**” shall be construed conjunctively and disjunctively.
4. “**Each**” means each and every.
5. “**Date**” means day, month, and year.
6. “**This action**” shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. “**Complaint**” shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 18**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 18.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 18.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 19**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 19.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 19.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 20**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 20.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 20.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 21**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 21.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 21.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 22**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 22.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 22.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
ZACHARY A. AVALLONE  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 23**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 23.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 23.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 24**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 24.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 24.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
CATHERINE M. YANG  
Trial Attorneys  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 25**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 25.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 25.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR  
ADMISSIONS TO PLAINTIFF U.S. NAVY SEAL 26**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy SEAL 26.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy SEAL 26.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Senior Trial Counsel  
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1100 L Street, N.W.  
Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF  
U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMAN 1**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Special Warfare Combatant Craft Crewman 1

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Special Warfare Combatant Craft Crewman 1.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMAN 2**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Special Warfare Combatant Craft Crewman 2.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Special Warfare Combatant Craft Crewman 2.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF  
U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMAN 3**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Special Warfare Combatant Craft Crewman 3.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Special Warfare Combatant Craft Crewman 3.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
AMY E. POWELL  
Senior Trial Counsel  
ZACHARY A. AVALLONE  
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Washington, DC 20005  
Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF**  
**U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMAN 4**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Special Warfare Combatant Craft Crewman 4.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Special Warfare Combatant Craft Crewman 4.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
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10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
ANDREW E. CARMICHAEL  
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Tel: (919) 856-4013  
Fax: (202) 616-8470  
Email: Amy.Powell@usdoj.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

**U.S. NAVY SEALS 1–3**, on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4–26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1–5**; and **U.S. NAVY DIVERS 1–3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMAN 5**

Pursuant to Federal Rule of Civil Procedure 36, Defendants, by and through their undersigned counsel, hereby respectfully propound their first set of requests for admission upon Plaintiff Navy Special Warfare Combatant Craft Crewman 5.

**INSTRUCTIONS**

1. When asked to respond to a request for an admission, the request is for information within your actual or constructive control. Your answers must therefore include not only information available to you, but also that is available to your attorneys, associates, employees, representatives, agents, and all other persons acting under, by, or through you, or subject to your control or supervision, or acting on your behalf.

2. If you cannot fully and completely answer a request for an admission, please provide the facts you rely upon in support of your contention that you cannot do so. To the extent a request for admission is not answered because of an assertion of privilege, please state the specific privilege relied upon and support the claim of privilege with a statement of particulars sufficient to enable the Court to assess its validity consistent with Federal Rule of Civil Procedure 26. If you object to answering only part of a request, please answer that part you do not object to answering and indicate what portion of the request to which your assertion of privilege extends.

3. These requests are to be deemed continuing to the full extent allowed by law.

4. Please forward the answers to undersigned counsel at the address or email address below no later than thirty (30) days from date of service.

## **DEFINITIONS**

For purposes of these requests for admission, the following definitions apply:

1. **“You,” “your,” or “Plaintiff,”** (without specific designation) for the purposes of these requests shall mean Plaintiff Navy Special Warfare Combatant Craft Crewman 5.
2. **“Plaintiffs”** (without specific designation) shall mean U.S. Navy SEAL 1, U.S. Navy SEAL 2, U.S. Navy SEAL 3, U.S. Navy SEAL 4, U.S. Navy SEAL 5, U.S. Navy SEAL 6, U.S. Navy SEAL 7, U.S. Navy SEAL 8, U.S. Navy SEAL 9, U.S. Navy SEAL 10, U.S. Navy SEAL 11, U.S. Navy SEAL 12, U.S. Navy SEAL 13, U.S. Navy SEAL 14, U.S. Navy SEAL 15, U.S. Navy SEAL 16, U.S. Navy SEAL 17, U.S. Navy SEAL 18, U.S. Navy SEAL 19, U.S. Navy SEAL 20, U.S. Navy SEAL 21, U.S. Navy SEAL 22, U.S. Navy SEAL 23, U.S. Navy SEAL 24, U.S. Navy SEAL 25, U.S. Navy SEAL 26, U.S. Navy Explosive Ordnance Disposal Technician 1, U.S. Navy Special Warfare Combatant Craft Crewman 1, U.S. Navy Special Warfare Combatant Craft Crewman 2, U.S. Navy Special Warfare Combatant Craft Crewman 3, U.S. Navy Special Warfare Combatant Craft Crewman 4, U.S. Navy Special Warfare Combatant Craft Crewman 5, U.S. Navy Diver 1, U.S. Navy Diver 2, and U.S. Navy Diver 3.
3. **“And”** and **“or”** shall be construed conjunctively and disjunctively.
4. **“Each”** means each and every.
5. **“Date”** means day, month, and year.
6. **“This action”** shall refer to *Navy SEALs 1-3, et al. v. Austin, et al.*, No. 4:21-cv-1236 (N.D. Tex.).
7. **“Complaint”** shall refer to the First Amended Class Action Complaint filed at Dkt. No. 84 in this action.

8. “**The Novavax COVID-19 vaccine**” refers the COVID-19 vaccine developed by the company Novavax, which was listed by the World Health Organization on December 20, 2021 and which was authorized by the Federal Food and Drug Administration on July 13, 2022 pursuant to an Emergency Use Authorization. *See* <https://perma.cc/C7X9-MXXE>. Novavax asserts that that fetal cell lines were not used in its production or testing.
9. “World Health Organization-listed COVID-19 vaccine” is used here to refer to those vaccines under a World Health Organization Emergency Use Listing, and includes The Pfizer/BioNTech Comirnaty vaccine (listed 31 December 2020); The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines (listed 16 February 2021); The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson (listed 12 March 2021); The Moderna COVID-19 vaccine (mRNA 1273) (listed 30 April 2021); The Sinopharm COVID-19 vaccine (listed 7 May 2021); The Sinovac-CoronaVac vaccine (listed 1 June 2021); The Bharat Biotech BBV152 COVAXIN vaccine (listed 3 November 2021); The Covovax (NVX-CoV2373) vaccine (listed 17 December 2021); The Nuvaxovid (NVX-CoV2373) vaccine (listed 20 December 2021).
10. The singular form of any word shall also be construed as the plural, and vice versa. Verbs shall be construed as though they were in the past tense, the present and the future tense, and vice versa.

## REQUESTS

1. Admit that you are unwilling to receive the Novavax COVID-19 vaccine.
2. Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

3. Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.
4. Admit that you have received the rubella vaccine.
5. Admit that you have received the varicella (chickenpox) vaccine.
6. Admit that you have received the Hepatitis A vaccine.
7. Admit that you have taken ibuprofen within the last five years.
8. Admit that you have taken aspirin within the last five years.
9. Admit that you have taken Tylenol within the last five years.

Dated: July 15, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS  
Director, Federal Programs Branch

ANTHONY J. COPPOLINO  
Deputy Director

/s/Amy E. Powell  
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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I served a copy of the foregoing requests on Plaintiffs' counsel via email on July 15, 2022.

/s/ Amy E. Powell

# DEX2

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALS 1-3; on behalf of  
themselves and all others similarly situated;  
U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1, on behalf of  
himself and all others similarly situated; U.S.  
NAVY SEALS 4-26; U.S. NAVY SPECIAL  
WARFARE COMBATANT CRAFT  
CREWMEN 1-5; and U.S. NAVY DIVERS  
1-3,**

Plaintiffs,

v.

**LLOYD J. AUSTIN, III, in his official  
capacity as United States Secretary of  
Defense; UNITED STATES  
DEPARTMENT OF DEFENSE; CARLOS  
DEL TORO, in his official capacity as  
United States Secretary of the Navy,**

Defendants.

Case No. 4:21-cv-01236-O

**PLAINTIFF U.S. NAVY SEAL 1's RESPONSES AND OBJECTIONS TO  
DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Plaintiff U.S. Navy SEAL 1 (“Plaintiff”) responds to Defendants’ First Set of Requests for Admissions as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

### **GENERAL OBJECTIONS**

1. Plaintiff objects to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.
2. Plaintiff objects to each instruction, definition, and request for admission to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, clergy privilege, marital privilege, or any other applicable privilege.
3. Plaintiff objects to each request for admission that is not reasonably related to any claim or defense in this case.
4. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive his right to amend his responses.

### **RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that you are unwilling to receive the Novavax COVID-19 vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 1:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense's August 24, 2021 COVID-19 vaccine mandate, "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug

Administration (FDA), in accordance with FDA-approved labeling and guidance.” Novavax has not received full licensure from the FDA.

**REQUEST FOR ADMISSION NO. 2:** Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

**REONSE TO REQUEST FOR ADMISSION NO. 2:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense’s August 24, 2021 COVID-19 vaccine mandate, “Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance.” None of the World Health Organization-listed COVID-19 vaccines, other than Moderna and Pfizer, have received full licensure from the FDA. (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/people-vaccinated-abroad.html>).

**REQUEST FOR ADMISSION NO. 3:** Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.

**REONSE TO REQUEST FOR ADMISSION NO. 3:** Plaintiff objects to this Request because the Request itself is entirely unclear and Plaintiff cannot discern how the Request is related to any claim or defense in this case.

**REQUEST FOR ADMISSION NO. 4:** Admit that you have received the rubella vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 4:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a rubella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own Religious Accommodation Request ("RAR") process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 5:** Admit that you have received the varicella (chickenpox) vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 5:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a varicella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally

presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 6:** Admit that you have received the Hepatitis A vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 6:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a Hepatitis A vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 7:** Admit that you have taken ibuprofen within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 7:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff took ibuprofen within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "'[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 8:** Admit that you have taken aspirin within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 8:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken aspirin within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-

19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 9:** Admit that you have taken Tylenol within the last five years.

**REPONSE TO REQUEST FOR ADMISSION NO. 9:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken Tylenol within the last five years. Only the COVID-19 vaccine that is the subject of this litigation. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher

stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

Respectfully submitted this 15 day of August 2022.

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*Attorneys for Plaintiffs*

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2022, I served a copy of Plaintiff U.S. Navy SEAL 1's Responses and Objections to Defendants' First Set of Requests for Admissions on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Andrew B. Stephens  
ANDREW B. STEPHENS

# DEX3

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALS 1-3; on behalf of  
themselves and all others similarly situated;  
U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1, on behalf of  
himself and all others similarly situated; U.S.  
NAVY SEALS 4-26; U.S. NAVY SPECIAL  
WARFARE COMBATANT CRAFT  
CREWMEN 1-5; and U.S. NAVY DIVERS  
1-3,**

Plaintiffs,

v.

**LLOYD J. AUSTIN, III, in his official  
capacity as United States Secretary of  
Defense; UNITED STATES  
DEPARTMENT OF DEFENSE; CARLOS  
DEL TORO, in his official capacity as  
United States Secretary of the Navy,**

Defendants.

Case No. 4:21-cv-01236-O

**PLAINTIFF U.S. NAVY SEAL 2's RESPONSES AND OBJECTIONS TO  
DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Plaintiff U.S. Navy SEAL 2 (“Plaintiff”) responds to Defendants’ First Set of Requests for Admissions as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

### **GENERAL OBJECTIONS**

1. Plaintiff objects to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.
2. Plaintiff objects to each instruction, definition, and request for admission to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, clergy privilege, marital privilege, or any other applicable privilege.
3. Plaintiff objects to each request for admission that is not reasonably related to any claim or defense in this case.
4. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive his right to amend his responses.

### **RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that you are unwilling to receive the Novavax COVID-19 vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 1:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense's August 24, 2021 COVID-19 vaccine mandate, "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug

Administration (FDA), in accordance with FDA-approved labeling and guidance.” Novavax has not received full licensure from the FDA.

**REQUEST FOR ADMISSION NO. 2:** Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

**REONSE TO REQUEST FOR ADMISSION NO. 2:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense’s August 24, 2021 COVID-19 vaccine mandate, “Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance.” None of the World Health Organization-listed COVID-19 vaccines, other than Moderna and Pfizer, have received full licensure from the FDA. (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/people-vaccinated-abroad.html>).

**REQUEST FOR ADMISSION NO. 3:** Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.

**REONSE TO REQUEST FOR ADMISSION NO. 3:** Plaintiff objects to this Request because the Request itself is entirely unclear and Plaintiff cannot discern how the Request is related to any claim or defense in this case.

**REQUEST FOR ADMISSION NO. 4:** Admit that you have received the rubella vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 4:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a rubella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own Religious Accommodation Request ("RAR") process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 5:** Admit that you have received the varicella (chickenpox) vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 5:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a varicella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally

presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 6:** Admit that you have received the Hepatitis A vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 6:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a Hepatitis A vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 7:** Admit that you have taken ibuprofen within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 7:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff took ibuprofen within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "'[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 8:** Admit that you have taken aspirin within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 8:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken aspirin within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-

19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 9:** Admit that you have taken Tylenol within the last five years.

**REPONSE TO REQUEST FOR ADMISSION NO. 9:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken Tylenol within the last five years. Only the COVID-19 vaccine that is the subject of this litigation. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher

stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

Respectfully submitted this 15 day of August 2022.

KELLY J. SHACKELFORD  
Texas Bar No. 18070950

JEFFREY C. MATEER  
Texas Bar No. 13185320

HIRAM S. SASSER, III  
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\*\* Not yet admitted to the D.C. Bar, but admitted to practice law in Florida. Practicing law in D.C. pursuant to D.C. Court of Appeals Rule 49(c)(8) under the supervision of an attorney admitted to the D.C. Bar.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2022, I served a copy of Plaintiff U.S. Navy SEAL 2's Responses and Objections to Defendants' First Set of Requests for Admissions on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Andrew B. Stephens  
ANDREW B. STEPHENS

# DEX4

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALS 1-3;** on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1,** on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4-26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5; and U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

**LLOYD J. AUSTIN, III,** in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE; CARLOS DEL TORO,** in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**PLAINTIFF U.S. NAVY SEAL 3's RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Plaintiff U.S. Navy SEAL 3 (“Plaintiff”) responds to Defendants’ First Set of Requests for Admissions as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

### **GENERAL OBJECTIONS**

1. Plaintiff objects to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.
2. Plaintiff objects to each instruction, definition, and request for admission to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, clergy privilege, marital privilege, or any other applicable privilege.
3. Plaintiff objects to each request for admission that is not reasonably related to any claim or defense in this case.
4. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive his right to amend his responses.

### **RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that you are unwilling to receive the Novavax COVID-19 vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 1:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense's August 24, 2021 COVID-19 vaccine mandate, "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug

Administration (FDA), in accordance with FDA-approved labeling and guidance.” Novavax has not received full licensure from the FDA.

**REQUEST FOR ADMISSION NO. 2:** Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

**REONSE TO REQUEST FOR ADMISSION NO. 2:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense’s August 24, 2021 COVID-19 vaccine mandate, “Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance.” None of the World Health Organization-listed COVID-19 vaccines, other than Moderna and Pfizer, have received full licensure from the FDA. (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/people-vaccinated-abroad.html>).

**REQUEST FOR ADMISSION NO. 3:** Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.

**REONSE TO REQUEST FOR ADMISSION NO. 3:** Plaintiff objects to this Request because the Request itself is entirely unclear and Plaintiff cannot discern how the Request is related to any claim or defense in this case.

**REQUEST FOR ADMISSION NO. 4:** Admit that you have received the rubella vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 4:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a rubella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own Religious Accommodation Request ("RAR") process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 5:** Admit that you have received the varicella (chickenpox) vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 5:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a varicella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally

presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 6:** Admit that you have received the Hepatitis A vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 6:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a Hepatitis A vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 7:** Admit that you have taken ibuprofen within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 7:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff took ibuprofen within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 8:** Admit that you have taken aspirin within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 8:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken aspirin within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-

19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 9:** Admit that you have taken Tylenol within the last five years.

**REPONSE TO REQUEST FOR ADMISSION NO. 9:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken Tylenol within the last five years. Only the COVID-19 vaccine that is the subject of this litigation. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher

stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

Respectfully submitted this 15 day of August 2022.

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\*\* Not yet admitted to the D.C. Bar, but admitted to practice law in Florida. Practicing law in D.C. pursuant to D.C. Court of Appeals Rule 49(c)(8) under the supervision of an attorney admitted to the D.C. Bar.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2022, I served a copy of Plaintiff U.S. Navy SEAL 3's Responses and Objections to Defendants' First Set of Requests for Admissions on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Andrew B. Stephens  
ANDREW B. STEPHENS

# DEX5

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

**U.S. NAVY SEALS 1-3**; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

**LLOYD J. AUSTIN, III**, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**PLAINTIFF U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1's RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Plaintiff U.S. Navy Explosive Ordnance Disposal Technician 1 (“Plaintiff”) responds to Defendants’ First Set of Requests for Admissions as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

**GENERAL OBJECTIONS**

1. Plaintiff objects to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.

2. Plaintiff objects to each instruction, definition, and request for admission to the extent that it seeks information protected from disclosure by the attorney-client privilege, attorney work product doctrine, clergy privilege, marital privilege, or any other applicable privilege.

3. Plaintiff objects to each request for admission that is not reasonably related to any claim or defense in this case.

4. Plaintiff incorporates by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive his right to amend his responses.

**RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:** Admit that you are unwilling to receive the Novavax COVID-19 vaccine.

**REPONSE TO REQUEST FOR ADMISSION NO. 1:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense's August 24, 2021 COVID-19 vaccine mandate, "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance." Novavax has not received full licensure from the FDA.

**REQUEST FOR ADMISSION NO. 2:** Admit that you are unwilling to travel to another country to receive any World Health Organization-listed COVID-19 vaccine that was developed without use of fetal cell lines.

**REPONSE TO REQUEST FOR ADMISSION NO. 2:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. According to the Department of Defense's August 24, 2021 COVID-19 vaccine mandate, "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance." None of the World Health Organization-listed COVID-19 vaccines, other than Moderna and Pfizer, have received full licensure from the FDA. (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/people-vaccinated-abroad.html>).

**REQUEST FOR ADMISSION NO. 3:** Admit that you do not know whether particular fetal cell lines that you allege were used in connection with the Pfizer, Moderna, or Johnson & Johnson COVID-19 vaccines resulted from an elective abortion.

**REONSE TO REQUEST FOR ADMISSION NO. 3:** Plaintiff objects to this Request because the Request itself is entirely unclear and Plaintiff cannot discern how the Request is related to any claim or defense in this case.

**REQUEST FOR ADMISSION NO. 4:** Admit that you have received the rubella vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 4:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a rubella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own Religious Accommodation Request ("RAR") process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 5:** Admit that you have received the varicella (chickenpox) vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 5:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a varicella vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "'[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 6:** Admit that you have received the Hepatitis A vaccine.

**REONSE TO REQUEST FOR ADMISSION NO. 6:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff previously received a Hepatitis A vaccine. The only vaccine that is the subject of this litigation is the COVID-19 vaccine. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "'[s]incerity is generally

presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 7:** Admit that you have taken ibuprofen within the last five years.

**REPONSE TO REQUEST FOR ADMISSION NO. 7:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff took ibuprofen within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr’g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff’s religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. It is also an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 8:** Admit that you have taken aspirin within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 8:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken aspirin within the last five years. Only the COVID-19 vaccine is the subject of this litigation. *See* Tr. of Hr'g on Mot. for Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that "[s]incerity is generally presumed or easily established,' and the court must handle that sincerity inquiry 'with a light touch, or judicial shyness.'" Dkt. 140 (citing *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr'g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff's beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy's own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs' religious beliefs underlying their RARs.

**REQUEST FOR ADMISSION NO. 9:** Admit that you have taken Tylenol within the last five years.

**REONSE TO REQUEST FOR ADMISSION NO. 9:** Plaintiff objects to this Request because it is not reasonably related to any claim or defense in this case. The Request is also irrelevant because it is immaterial whether Plaintiff has taken Tylenol within the last five years. Only the COVID-19 vaccine that is the subject of this litigation. *See* Tr. of Hr'g on Mot. for

Prelim. Inj. 47:15-48:3. And it has already been established that Plaintiff's religious objections to taking the COVID-19 vaccine are sincere. The Court recognized that “[s]incerity is generally presumed or easily established,’ and the court must handle that sincerity inquiry ‘with a light touch, or judicial shyness.’” Dkt. 140 (citing *Moussazadeh v. Tex. Dep’t of Crim. Just.*, 703 F.3d 781, 791-92 (5th Cir. 2020); *see also* Tr. of Hr’g on Mot. for Prelim. Inj. 47:8-48:9. Furthermore, it is an undisputed material fact that Plaintiff’s beliefs were determined to be sincere by a Navy chaplain pursuant to the Navy’s own RAR process. And as Admiral Lescher stated during his June 30, 2022 deposition (page 75, lines 11-16), he has no reason to doubt the sincerity of the Plaintiffs’ religious beliefs underlying their RARs.

Respectfully submitted this 15 day of August 2022.

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of an attorney admitted to the D.C. Bar.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2022, I served a copy of Plaintiff U.S. Navy Explosive Ordnance Disposal Technician 1's Responses and Objections to Defendants' First Set of Requests for Admissions on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Andrew B. Stephens  
ANDREW B. STEPHENS

# DEX6

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

**U.S. NAVY SEALS 1-3;** on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1,** on behalf of himself and all others similarly situated; **U.S. NAVY SEALS 4-26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5;** and **U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

**LLOYD J. AUSTIN, III,** in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE;** **CARLOS DEL TORO,** in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**NON-CLASS REPRESENTATIVE PLAINTIFFS' (U.S. NAVY SEALS 4-26; U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5; and U.S. NAVY DIVERS 1-3) OBJECTIONS TO DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Non-Class Representative Plaintiffs (U.S. Navy SEALs 4-26; U.S. Navy Special Warfare Combatant Craft Crewmen 1-5; and U.S. Navy Divers 1-3) ("Plaintiffs") object to to Defendants' First Set of Requests for Admissions as follows:

**PRELIMINARY STATEMENT**

1. By making the accompanying objections to Defendants' First Set of Requests for Admissions, Plaintiffs do not waive, and hereby expressly reserve, their right to supplement, clarify, revise, or correct any or all of the objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).
2. By making the accompanying objections to Defendants' First Set of Requests for Admissions, Plaintiffs do not waive, and hereby expressly reserve, their right to respond to Defendants' First Set of Requests for Admissions. No request for admission set forth herein shall be deemed admitted.

**GENERAL OBJECTIONS**

1. Plaintiffs object to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.
2. Plaintiffs object to all discovery requests to any individuals who are not class representatives. Individualized discovery is not available in Rule 23 class actions. *See Kervin v. Supreme Serv. & Specialty Co., Inc.*, No. CV 15-01172, 2016 WL 8257256, at \*3 (E.D. La. May 24, 2016) (stating “[i]ndividualized discovery is not generally allowed in a Rule 23 class action”); *McGrath v. City of Philadelphia*, No. CIV. A. 92-4570, 1994 WL 45162, at \*3 (E.D. Pa. Feb. 10, 1994) (stating “[i]t is well established that individualized discovery . . . is inappropriate in a class action lawsuit”); *Adkins v. Mid-Am. Growers, Inc.*, 141 F.R.D. 466, 468 (N.D. Ill. 1992) (“[T]he ideas of a class action and individualized discovery do not fit together well. Federal Rule of Civil Procedure 23 states ‘[o]ne or more members of a class may sue ... as representative parties on

behalf of all only if (1) the class is so numerous that joinder of all members is impracticable . . . . If joinder of all parties is impracticable, propounding discovery like interrogatories, depositions, and requests to produce on an individual basis is even more impracticable.”). Such requests are not only unduly burdensome but would also yield the same results as discovery requests to the class representatives.

3. Plaintiffs object to each and every request for admission presented in Defendants’ First Set of Requests for Admissions with each and every general objection set forth above. Plaintiffs do not waive their right to amend their objections.

Respectfully submitted this 15 day of August 2022.

KELLY J. SHACKELFORD  
Texas Bar No. 18070950  
JEFFREY C. MATEER  
Texas Bar No. 13185320  
HIRAM S. SASSER, III  
Texas Bar No. 24039157  
DAVID J. HACKER  
Texas Bar No. 24103323  
MICHAEL D. BERRY  
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/s/ Andrew B. Stephens  
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\*\* Not yet admitted to the D.C. Bar, but  
admitted to practice law in Florida. Practicing  
law in D.C. pursuant to D.C. Court of  
Appeals Rule 49(c)(8) under the supervision  
of an attorney admitted to the D.C. Bar.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2022, I served a copy of Non-Class Representative Plaintiffs' Objections to Defendants' First Set of Requests for Admissions on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Andrew B. Stephens  
ANDREW B. STEPHENS

DEX7

**Lowenstein, Jody D. (CIV)**

---

**From:** Heather Hacker <heather@hackerstephens.com>  
**Sent:** Monday, October 3, 2022 5:10 PM  
**To:** Lowenstein, Jody D. (CIV); Andrew Stephens  
**Cc:** Danielle Runyan; Holly Randall; David Hacker; Mike Berry; Ryan Gardner; Powell, Amy (CIV); Carmichael, Andrew E. (CIV); Avallone, Zachary A. (CIV); Snyder, Cassandra M (CIV); Yang, Catherine M (CIV); Knapp, Cody T. (CIV)  
**Subject:** [EXTERNAL] RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

Jody,

We apologize for the delay in getting back to you. We have reviewed and compared the RFAs with the RFPs/ROGs and the motion to compel briefing and the following is our position on the matter:

- The Court's resolution of the issue in the first motion to compel regarding class member discovery will impact which Plaintiffs must respond to the RFAs.
- There is no direct overlap between RFAs 1-3 and the ROGs/RFPs at issue, but those requests may be impacted by the Court's resolution of the arguments in the motion to compel briefing regarding sincerity, substantial burden, and least restrictive means. To what extent, if at all, depends on the Court's ruling.
- RFAs 4-9 appear to overlap with ROGs 3 and 13 and RFPs 9 and 10, and thus will presumably be affected by the Court's ruling on the first motion to compel.

Because the full scope of the dispute will be unclear until we get the Court's ruling, Plaintiffs' position remains that any further litigation on these discovery issues should take place after the Court's ruling to avoid wasting the Court's and the parties' time and resources.

Heather

---

**From:** Lowenstein, Jody D. (CIV) <Jody.D.Lowenstein@usdoj.gov>  
**Sent:** Monday, October 3, 2022 9:27 AM  
**To:** Heather Hacker <heather@hackerstephens.com>; Andrew Stephens <andrew@hackerstephens.com>  
**Cc:** Danielle Runyan <drunyan@firstliberty.org>; Holly Randall <hrandall@firstliberty.org>; David Hacker <dhacker@firstliberty.org>; Mike Berry <mberry@firstliberty.org>; Ryan Gardner <rgardner@firstliberty.org>; Powell, Amy (CIV) <Amy.Powell@usdoj.gov>; Carmichael, Andrew E. (CIV) <Andrew.E.Carmichael@usdoj.gov>; Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov>; Snyder, Cassandra M (CIV) <Cassandra.M.Snyder@usdoj.gov>; Yang, Catherine M (CIV) <Catherine.M.Yang@usdoj.gov>; Knapp, Cody T. (CIV) <Cody.T.Knapp@usdoj.gov>  
**Subject:** RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

Andrew, Heather,

Do Plaintiffs intend to respond? As I explained last week, Defendants have held off on filing a motion to compel answers to their RFAs because Plaintiffs wanted time to consider whether the court's resolution of the pending motion to compel would be fully dispositive of their objections to the RFAs. Absent an agreement as to the effect of the courts' forthcoming ruling, Defendants intend to file another motion to compel by Friday.

Thanks,

**Jody D. Lowenstein**  
Trial Attorney

U.S. Department of Justice  
Civil Division, Federal Programs Branch  
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Washington, DC 20005  
(202) 598-9280  
[jody.d.lownenstein@usdoj.gov](mailto:jody.d.lownenstein@usdoj.gov)

---

**From:** Lowenstein, Jody D. (CIV)  
**Sent:** Wednesday, September 28, 2022 4:33 PM  
**To:** Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>; Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>  
**Cc:** Danielle Runyan <[drunyan@firstliberty.org](mailto:drunyan@firstliberty.org)>; Holly Randall <[hrandall@firstliberty.org](mailto:hrandall@firstliberty.org)>; David Hacker <[dhacker@firstliberty.org](mailto:dhacker@firstliberty.org)>; Mike Berry <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Ryan Gardner <[rgardner@firstliberty.org](mailto:rgardner@firstliberty.org)>; Powell, Amy (CIV) <[Amy.Powell@usdoj.gov](mailto:Amy.Powell@usdoj.gov)>; Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV) <[Cassandra.M.Snyder@usdoj.gov](mailto:Cassandra.M.Snyder@usdoj.gov)>; Yang, Catherine M (CIV) <[Catherine.M.Yang@usdoj.gov](mailto:Catherine.M.Yang@usdoj.gov)>; Knapp, Cody T. (CIV) <[Cody.T.Knapp@usdoj.gov](mailto:Cody.T.Knapp@usdoj.gov)>  
**Subject:** RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

Andrew, Heather,

I am emailing to follow up on the parties' September 8 meet and confer.

As you will recall, we discussed Defendants' intent to move to compel answers to the RFAs that Defendants served on July 15, 2022. I indicated that, notwithstanding Plaintiffs' objections dated August 15, 2022, Defendants are entitled to prompt answers to their RFAs for many of the same reasons laid out in Defendants' pending motion to compel responses to their interrogatories and RFPs. Given the significant overlap in the parties' arguments, you suggested that we should await the court's ruling on Defendants' pending motion to compel before litigating the RFAs.

I indicated that Defendants were open to your suggestion, but only if Plaintiffs would agree to treat the court's ruling on the pending motion as fully dispositive of Plaintiffs' objections to Defendants' RFAs. You asked for time to consider our proposal and to determine whether there were any issues unique to Defendants' RFAs that would require a separate determination by the court. To allow you and your clients to do so, Defendants agreed to hold off on filing our motion for the time being.

Plaintiffs have now had almost three weeks to consider their position. Would you please let us know if Plaintiffs will agree to treat the court's decision on the pending motion to compel as fully dispositive of their objections to Defendants' RFAs? Please provide us with Plaintiffs' position by COB Friday, September 30.

Thank you,

**Jody D. Lowenstein**  
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U.S. Department of Justice  
Civil Division, Federal Programs Branch  
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Washington, DC 20005  
(202) 598-9280  
[jody.d.lownenstein@usdoj.gov](mailto:jody.d.lownenstein@usdoj.gov)

---

**From:** Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>  
**Sent:** Wednesday, September 7, 2022 11:47 AM

**To:** Powell, Amy (CIV) <[Amy.Powell@usdoj.gov](mailto:Amy.Powell@usdoj.gov)>; Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>; Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV) <[Cassandra.M.Snyder@usdoj.gov](mailto:Cassandra.M.Snyder@usdoj.gov)>; Yang, Catherine M (CIV) <[Catherine.M.Yang@usdoj.gov](mailto:Catherine.M.Yang@usdoj.gov)>; Knapp, Cody T. (CIV) <[Cody.T.Knapp@usdoj.gov](mailto:Cody.T.Knapp@usdoj.gov)>; Lowenstein, Jody D. (CIV) <[Jody.D.Lowenstein@usdoj.gov](mailto:Jody.D.Lowenstein@usdoj.gov)>  
**Cc:** Danielle Runyan <[drunyan@firstliberty.org](mailto:drunyan@firstliberty.org)>; Holly Randall <[hrandall@firstliberty.org](mailto:hrandall@firstliberty.org)>; David Hacker <[dhacker@firstliberty.org](mailto:dhacker@firstliberty.org)>; Mike Berry <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Ryan Gardner <[rgardner@firstliberty.org](mailto:rgardner@firstliberty.org)>  
**Subject:** [EXTERNAL] RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

We can talk tomorrow morning after 9:30 CST.

---

**From:** Powell, Amy (CIV) <[Amy.Powell@usdoj.gov](mailto:Amy.Powell@usdoj.gov)>  
**Sent:** Wednesday, September 7, 2022 10:44 AM  
**To:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>; Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV) <[Cassandra.M.Snyder@usdoj.gov](mailto:Cassandra.M.Snyder@usdoj.gov)>; Yang, Catherine M (CIV) <[Catherine.M.Yang@usdoj.gov](mailto:Catherine.M.Yang@usdoj.gov)>; Knapp, Cody T. (CIV) <[Cody.T.Knapp@usdoj.gov](mailto:Cody.T.Knapp@usdoj.gov)>; Lowenstein, Jody D. (CIV) <[Jody.D.Lowenstein@usdoj.gov](mailto:Jody.D.Lowenstein@usdoj.gov)>  
**Cc:** Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>; Danielle Runyan <[drunyan@firstliberty.org](mailto:drunyan@firstliberty.org)>; Holly Randall <[hrandall@firstliberty.org](mailto:hrandall@firstliberty.org)>; David Hacker <[dhacker@firstliberty.org](mailto:dhacker@firstliberty.org)>; Mike Berry <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Ryan Gardner <[rgardner@firstliberty.org](mailto:rgardner@firstliberty.org)>  
**Subject:** RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

Andrew, all:

I don't think I received a response to this email. Do you have time to talk today or tomorrow morning?

Amy

---

**From:** Powell, Amy (CIV)  
**Sent:** Friday, September 02, 2022 10:10 AM  
**To:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>; Carmichael, Andrew E. (CIV) <[Andrew.E.Carmichael@usdoj.gov](mailto:Andrew.E.Carmichael@usdoj.gov)>; Avallone, Zachary A. (CIV) <[Zachary.A.Avallone@usdoj.gov](mailto:Zachary.A.Avallone@usdoj.gov)>; Snyder, Cassandra M (CIV) <[Cassandra.M.Snyder@usdoj.gov](mailto:Cassandra.M.Snyder@usdoj.gov)>; Yang, Catherine M (CIV) <[Catherine.M.Yang@usdoj.gov](mailto:Catherine.M.Yang@usdoj.gov)>; Knapp, Cody T. (CIV) <[Cody.T.Knapp@usdoj.gov](mailto:Cody.T.Knapp@usdoj.gov)>; Lowenstein, Jody D. (CIV) <[Jody.D.Lowenstein@usdoj.gov](mailto:Jody.D.Lowenstein@usdoj.gov)>  
**Cc:** Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>; Danielle Runyan <[drunyan@firstliberty.org](mailto:drunyan@firstliberty.org)>; Holly Randall <[hrandall@firstliberty.org](mailto:hrandall@firstliberty.org)>; David Hacker <[dhacker@firstliberty.org](mailto:dhacker@firstliberty.org)>; Mike Berry <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Ryan Gardner <[rgardner@firstliberty.org](mailto:rgardner@firstliberty.org)>  
**Subject:** RE: Navy Seals 1-26 v. Biden - meet and confer re: RFAs

Andrew:

We have had a chance to fully review Plaintiffs' responses to the RFAs, and we are reaching out to meet and confer about a motion to compel responses, both from the non-class-representative Plaintiffs, and the class representatives, as to all RFAs. Please let us know when you might be available to discuss today Tuesday or Wednesday. Given where the parties were before Defendants filed the first motion to compel, I expect we understand Plaintiffs' position, and this can probably be a short call. We are always, of course, open to trying to negotiate a solution instead if you have proposals. My colleagues Cody Knapp and Jody Lowenstein will be handling the call, I think.

Amy Elizabeth Powell  
Senior Trial Counsel, Federal Programs Branch  
Civil Division, Department of Justice

Case 4:21-cv-01236-O Document 205 Filed 10/14/22 Page 270 of 275 PageID 7124  
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# DEX8

**DECLARATION OF DR. BRUCE M. MCCLENATHAN**

I, Bruce M. McClenathan, hereby state and declare as follows:

1. I am a regional medical director of the Defense Health Agency-Immunization Healthcare Division (DHA-IHD) stationed at Fort Bragg, North Carolina. During the development of the Novavax NVX-CoV2373 vaccine, I was a member of the DHA and Preventive Medicine Services' COVID-19 Vaccine Implementation Plan Team.
2. I am generally aware of the allegations set forth in the pleadings filed in this matter. I make this declaration in my official capacity as DHA-IHD regional director and based upon my personal knowledge and upon information that has been provided to me in the course of my official duties.
3. Attached as Exhibit A is a true and correct copy of the memorandum, titled "Novavax COVID-19 Vaccine (NVX-CoV2373)-Information on Fetal Cell/Fetal Tissue," that I received from Dr. Gale Smith, PhD, Senior Vice President for Discovery and Pre-clinical Research, and Chief Scientist at Novavax, on or about 12 January 2022 in the course of my work on the COVID-19 Vaccine Implementation Plan Team.
4. Novavax is available across the Department of Defense.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 5th day of August 2022.

MCCLENATHAN.BR  
UCE.M.1075595715  
Digitally signed by  
MCCLENATHAN.BRUCE.M.10755  
95715  
Date: 2022.08.05 14:47:19 -04'00'

BRUCE M. MCCLENATHAN  
Regional Director  
Immunization Healthcare Division

# Exhibit A



## Novavax COVID-19 Vaccine (NVX-CoV2373)-Information on Fetal Cell/Fetal Tissue

*Novavax Medical Information is providing you this information in response to your request for medical information. You requested information regarding the use of fetal tissue or fetal cell lines in the development, confirmation, or production stages of the Novavax COVID-19 vaccine (NVX-CoV2373).*

### Novavax COVID-19 Vaccine Development

Novavax' NVX-CoV2373 vaccine is a recombinant protein vaccine, comprised of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) spike glycoproteins and a saponin based Matrix-M adjuvant.<sup>2</sup> The Novavax NVX-CoV2373 is produced in insect cells, not mammalian cells.

A genetic sequence for the coronavirus spike protein is cloned into the baculovirus and then infects the Sf9 insect cells to produce the spike protein antigen that is subsequently purified by filtration and chromatography. The saponin based Matrix-M adjuvant is based on the Quillaja saponaria Molina bark together with cholesterol and phospholipids. The adjuvant is designed to increase the immune response to the rSARS-CoV-2 protein.<sup>2</sup>

Animal or fetal-derived cell lines/tissue are not used in the manufacturing, testing, or production of the Novavax COVID-19 vaccine (NVX-CoV2373) administered in the clinical trials.

In early development, pre-clinical evaluation was conducted to compare the structural integrity of the SARS-CoV-2 spike protein produced in the Sf9 insect cells versus the spike protein produced in the mammalian immortalized human embryonic kidney HEK 293F cells. The comparison determined the Sf9 cell technology produced spike proteins that were comparable in structural integrity as the spike proteins produced in the HEK 293F cell.<sup>4</sup> These pre-clinical experiments were conducted using purified SARS CoV-2 spike protein produced by a vendor separate from Novavax in a facility separate from where NVX-CoV2373 is manufactured and the assays did not employ fetal cells or tissues. Thus, no fetal cells or tissues are utilized at any time during the production or testing of NVX-CoV2373.

### REFERENCE(S):

1. Hu J, Han J, Li H, et al. Human Embryonic Kidney 293 Cells: A Vehicle for Biopharmaceutical Manufacturing, Structural Biology, and Electrophysiology. *Cells Tissues Organs.* 2018;205(1):1-8. doi: 10.1159/000485501. Epub 2018 Feb 1. PMID: 29393161.

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21 Firstfield Rd  
Gaithersburg, MD 20878  
Defs.' Mot. to Compel Pls. to Answer Bets. Preq. for Admis.  
App.000272

2. Recombinant Nanoparticle Vaccine Technology. Novavax.  
<https://www.novavax.com/our-unique-technology#recombinant-nanoparticle-vaccine-technology>. Accessed December 18, 2020.
3. Data on File (1). Novavax, Inc., 2021.
4. Bangaru S, Ozorowski G, Turner HL, et al. Structural Analysis of Full-Length SARS-CoV-2 Spike Protein From an Advanced Vaccine Candidate. *Science*. 2020 Nov 27;370(6520):1089-1094. doi: 10.1126/science.abe1502. Epub 2020 Oct 20. PMID: 33082295.



Dr. Gale Smith, PhD  
Senior Vice President  
Discovery and Pre-clinical Research  
Chief Scientist

